

of the Internet, as one Vermont newspaper put it.

The Internet is a valuable asset to our nation, to our economy, and to the lives of Americans, and we should act prudently to secure its continued viability and vitality.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on October 3, 2001. In Norco, California, and Arab-American businessman was badly beaten by two men. As the man was closing his store for the evening, the pair entered the store wearing ski masks and shoved the victim to the back of the store. There they beat him and accosted him with racial epithets. The men then chained the victim to prevent him from fleeing, spray painted his face with black paint, and poured fire starter fluid on him. The victim eventually lost consciousness after he was repeatedly struck with liter bottles.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NOMINATION OF JUDGE CONSUELO CALLAHAN

Mr. LEAHY. Mr. President, I have been disappointed that the Republican leadership has not found time to proceed to the nomination of Judge Consuelo Callahan to the United States Court of Appeals for the Ninth Circuit. This is another of the judicial nominees that Senate Democrats have strongly supported and whose consideration we had expedited through the Judiciary Committee last week.

We still do not know who on the Republican side delayed consideration of the consensus nomination of Judge Prado for a month. I thank the Congressional Hispanic Caucus for its support of that nomination as well as this nomination and for working with the Senate to bringing fair evaluation of these nominees and for adding their voice to the discussion of these lifetime appointments.

Just as Senate Democrats cleared the nomination of Judge Edward Prado to the U.S. Court of Appeals for the Fifth Circuit without delay, so, too, the nomination of this Hispanic nominee to another circuit court was cleared on

the Democratic side last week. All Democratic Senators serving on the Judiciary Committee voted to report her nomination favorably. All Democratic Senators indicated that they were eager to proceed with her nomination and, after a reasonable period of debate, we voted on her nomination. I am confident this nomination will be confirmed by an extraordinary majority—maybe unanimously.

It is most unfortunate that so many partisans in this administration and on the other side of the aisle insist on bogging down consensus matters and consensus nominees in order to focus exclusively on the most divisive and controversial of this President's nominees as he continues his efforts to pack the courts. Democratic Senators have worked very hard to cooperate with this administration in order to fill judicial vacancies. What the other side seeks to obscure is our effort, our fairness and the progress we have been able to achieve without much help from the other side or the administration.

The fact is that when Democrats became the Senate majority in the summer of 2001, we inherited 110 judicial vacancies. Over the next 17 months, despite constant criticism from the administration, the Senate proceeded to confirm 100 of President Bush's nominees, including several who were divisive and controversial, several who had mixed peer review ratings from the ABA and at least one who had been rated not qualified. Despite the additional 40 vacancies that arose, we reduced judicial vacancies to 60, a level below that termed "full employment" by Senator HATCH. Since the beginning of this year, in spite of the Republican's fixation on the President's most controversial nominations, we have worked hard to reduce judicial vacancies even further. As of today, the number of judicial vacancies has been reduced to 47 and is the lowest it has been in 13 years. That is lower than at any time during the entire 8 years of the Clinton administration. We have already reduced judicial vacancies from 110 to 47, in 2 years. We have reduced the vacancy rate from 12.8 percent to 5.4 percent, the lowest it has been in the last two decades. With some cooperation from the administration think of the additional progress we could be making.

Earlier this month, we were able to obtain Senate consideration of the nomination of Judge Prado, and another distinguished Hispanic nominee who was reported unanimously by the Judiciary Committee last month—Judge Cecilia Altonaga to be a Federal judge in Florida. We expedited consideration of that nominee at the request of Senator GRAHAM of Florida. I am told that she is the first Cuban-American woman to be confirmed to the Federal bench. Indeed, Democrats in the Senate have worked to expedite fair consideration of every Latino nominee this President has made to

the Federal trial courts in addition to the nominations of Judge Prado and Judge Callahan.

Today, I urge the leadership to allow us to consider the nomination of Judge Consuelo Maria Callahan to the Ninth Circuit Court of Appeals. Unlike the divisive nomination of Carolyn Kuhl to the same court, both home-State Senators support the nomination of Judge Callahan. Rather than disregarding time-honored rules and Senate practices, I urge my friends on the other side of the aisle to help us fill more judicial vacancies more quickly by bringing those nominations that have bipartisan support, like Judge Callahan, to the front of the line for committee hearings and floor votes.

As I have noted throughout the last 2 years, the Senate is able to move expeditiously when we have consensus, mainstream nominees to consider. In a recent column, David Broder noted that he asked Alberto Gonzales if there was a lesson in Judge Prado's easy approval, but that Mr. Gonzales missed the point. In Mr. Broder's mind: "The lesson seems obvious. Conservatives can be confirmed for the courts when they are well known in their communities and a broad range of their constituents have reason to think them fair-minded." Judge Consuelo Callahan is another such nominee.

To date the Senate has proceeded to confirm 124 of President Bush's nominees, 100 in the 17 months in which Democrats comprised the Senate majority. The lesson that less controversial nominees are considered and confirmed more easily was the lesson of the last 2 years, but that lesson has been lost on this White House and the current Senate leadership.

Unfortunately, far too many of this President's nominees raise serious concerns about whether they will be fair judges to all parties on all issues. Those types of nominees should not be rushed through the process. I regret the administration's refusal to work with us to end the impasse it has created in connection with the Estrada nomination. The partisan politics of division that the administration is practicing with respect to that nomination are not helpful and not respectful of the damage done to the Hispanic community by insisting on so divisive a nominee.

I invite the President to work with us and to nominate more mainstream individuals like Judge Prado and Judge Callahan whose proven records and bipartisan support make it easier for us to uphold our constitutional duty of advise and consent. I look forward to casting a vote in favor of her confirmation to the Circuit Court.

In connection with the unexplained Republican delay before consideration of the nomination of Judge Prado, some suggested that Judge Prado had been delayed because Democratic Senators were likely to vote for him and thereby undercut the Republican's shameless charge that opposition to